

Message Text

CONFIDENTIAL

PAGE 01 USUN N 02831 01 OF 02 100057Z

66

ACTION IO-14

INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01 ADP-00

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10

PA-03 PRS-01 SS-15 USIA-15 OIC-04 CPR-02 SY-10 USSS-00

FBIE-00 SCA-01 EB-11 M-03 A-01 RSR-01 /188 W

----- 050088

R 100005Z AUG 73

FM USMISSION USUN NY

TO SECSTATE WASHDC 9016

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY BRUSSELS

AMEMBASSY BONN

USMISSION GENEVA

AMEMBASSY OTTAWA

AMEMBASSY STOCKHOLM

AMEMBASSY COPENHAGEN

AMEMBASSY VIENNA

AMEMBASSY CANBERRA

AMEMBASSY HAGUE

AMEMBASSY TOKYO

AMEMBASSY ROME

C O N F I D E N T I A L SECTION 1 OF 2 USUN 2831

E.O. 11652: GDS

TAGS: PFOR, PINS, UN, NL, AS, AU, UK, BE, GW, FR, SW

SUBJ: CONVENTION ON PROTECTION OF DIPLOMATS

REF: USUN 2539 (NOTAL) AND USUN 2570 (NOTAL) USUN 2806 (NOTAL)

SUMMARY: VAN BRUSSELEN (BELGIUM) GROUP MET
AUG 9 TO CONTINUE REVIEW OF ILC DRAFT ARTICLES ON
PROTECTION OF DIPLOMATS. PRESENT WERE SWEDEN, US,
CANADA, UK, BELGIUM, JAPAN, AUSTRALIA, ITALY, FRG,
NETHERLANDS, FRANCE AND DENMARD. BELGIUM CIRCULATED
CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USUN N 02831 01 OF 02 100057Z

DRAFTS OF ARTICLES 1 AND 2 BASED ON DISCUSSIONS AT

MEETING AUG 6 (TRANSMITTED SEPTELS, NOTAL). AFTER BRIEF DISCUSSION OF THESE DRAFTS, GROUP REVIEWED REMAINDER OF ARTICLES. GROUP DECIDED TO CONVENE NEXT MEETING SEPT 5, AT WHICH BOTH TEXTS AND TACTICS WILL BE DISCUSSED. END SUMMARY.

1. VAN BRUSSELEN DISTRIBUTED COMPOSITE TEXT OF ARTICLE 1 AND THREE VERSIONS OF ARTICLE 2 WHICH HE HAD DRAFTED ON BASIS PREVIOUS MEETING. THESE TEXTS TRANSMITTED SEPTELS. JAPAN REFERRED TO VERSION 2 OF ARTICLE 2 AND INDICATED THIS TEXT INACCURATE IN THAT IT FAILED TO TAKE UP JAPANESE PROPOSAL ON MOTIVE (PARA 2 OF USUN 2806). HE ALSO SAID GOJ HAD MADE NO FINAL DECISION ON UNIVERSAL JURISDICTION ASPECT. FINALLY, SUPPORTED BY UK, HE SAID PHRASE "WHICH TAKE INTO ACCOUNT OFFENSES" IN PARA 2 SHOULD BE DELETED. FRG HAD PROBLEM WITH TERM "MURDER" WHICH THOUGHT TO BE TOO LIMITED. SWEDEN SUPPORTED JAPANESE PROPOSAL FOR SUBPARA (A).

2. RE VERSION 1 OF ARTICLE 2, VAN BRUSSELEN NOTED THE HE UNABLE TO FIND GOOD FRENCH TRANSLATION FOR TERM "SERIOUS" IN ENGLISH. SWEDEN RECOMMENDED REVISING LANGUAGE AT END OF PARA 1 TO TAKE INTO ACCOUNT US SUGGESTION (PARA 2 OF USUN 2806) SO THAT TEXT WOULD READ "PROVIDED THE ALLEGED OFFENDER KNEW OR OUGHT TO HAVE KNOWN OF THE OFFICIAL STATUS OF THE VICTIM." SWEDEN SUPPORTED UK SUGGESTION THAT THIS LANGUAGE SHOULD NOT REFER TO "FULL" KNOWLEDGE OF THE STATUS OF THE VICTIM.

3. RE UK PROPOSAL TRANSMITTED PARA 4 OF USUN 2806, SWEDEN SAID GOS COULD ACCEPT UNIVERSAL JURISDICTION, BUT COULD ALSO ACCEPT UK PROPOSAL. UK EXPLAINED THAT TRUE UNIVERSAL JURISDICTION SHOULD BE LIMITED TO VERY SMALL NUMBER OF OFFENSES SUCH AS PIRACY AND THAT OFFENSES COVERED BY THIS CONVENTION SHOULD BE TREATED IN MANNER SIMILAR TO HAGUE CONVENTION. BELGIUM, JAPAN AND NETHERLANDS SAID THEY HAD NO COMMENTS FROM THEIR CAPITALS ON UK TEXT, BUT IN CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USUN N 02831 01 OF 02 100057Z

PRINCIPLE FAVORED THIS PROPOSAL. AUSTRALIA INQUIRED OF DIFFERENCE BETWEEN ILC DRAFT AND UK DRAFT. US EXPLAINED DIFFERENCE AND ARGUED FOR ILC VERSION, RECOGNIZING THAT AS FINAL FALLBACK IT MIGHT BE NECESSARY TO ACCEPT UK POSITION BUT ARGUING THAT THIS NOT TIME DO SO. UK SAID REASONING GIVEN BY US HIGHLIGHTED POTENTIAL GRAVE POLITICAL PROBLEMS INHERENT IN UNIVERSAL JURISDICTION AND GAVE

AS EXAMPLE A STATE PRY TO CONVENTION
HAVING NO CONTACT WITH PARTICULAR CRIME TRYING
OFFENDER IN ABSENTIA UNDER UNIVERSAL JURISDICTION
PROVISION.

4. RE ARTICLE 3, BELGIAN MENTIONED HIS PROPOSAL
FOR BRINGING THIS ARTICLE INTO LINE WITH ARTICLE 10(1)
OF MONTREAL CONVENTION. UK SUPPORTED. US ARGUED
FOR STONGER TEXT IN ILC DRAFT.

5. RE ARTICLE 4, UK AND FRG SUGGESTED LIMITING
STATES TO WHICH IT NECESSARY TO PROVIDE INFORMATION,
BUT SAID THIS NOT VERY IMPORTANT CHANGE. UK
SUGGESTED, IF ITS PROPOSAL CONTAINED PARA 4 OF
USUN 2806 ACCEPTED, THAT ARTICLE 4 BE CHANGED
TO READ "...COMMUNICATE TO THE OTHER STATES
TO WHICH IT BELIEVES THE OFFENDER MAY HAVE FLED
...." FRG SUGGESTED SPECIFYING STATES INSTEAD OF
REFERRING TO ARTICLE 2A. US SAID THIS AMENDMENT
CONSEQUENTIAL IF UK SCHEME RE JURISDICTION ACCEPTED
AND STRESSED IMPORTANCE KEEPING CURRENT ARTICLE 4
IF ILC TEXT ON JURISDICTION REMAINED INTACT.
RE ARTICLE 5, BELGIAN MENTIONED THAT MOST HAD
FAVORED REPLACING BY ARTICLE 6 OF MONTREAL CONVENTION,
BUT US EXPRESSED RETICENCE. UK SUGGESTED TECHNICAL
CHANGE OF PROVIDING FOR NOTIFICATION TO IOS IN
PARA 2.

6. RE ARTICLE 6, BELGIAN SAID MOST WANTED TO USE
HAGUE-MONTREAL FORMULA.

7. RE ARTICLE 7, BELGIAN SUMMARIZED SUGGESTIONS AS:
LOWER TIME LIMIT FROM SIX TO THREE MONTHS; BRINGING
CONFIDENTIAL

CONFIDENTIAL

PAGE 04 USUN N 02831 01 OF 02 100057Z

CLOSER TO ARTICLE 8 OF HAGUE CONVENTION; DELETE
WORD "PROCEDURAL"; DROP PARA 4; REPLACE PARA 4 WITH
UK AMENDMENT CONTAINED PARA 4 OF USUN 2806. BELGIAN
SAID GUS GIVERBNEBT CIYKD ACCEPT THREE MONTHS, AND
WOULD LIKE TO SEE WHOLE ARTICLE REPLACED PURE AND
SIMPLE BY HAGUE ARTICLE 8. UK SUPPORTED AMENDMENT IT
PUT FORWARD AUG 6. US SAID INCLUSION OF PARA 4
DEALING WITH PRIORITIES FOR EXTRADITION AND INCLUSION
OF PARA ALONG LINES UK PROPOSAL DEPENDED UPON
DECISION ON UNIVERSAL JURISDICTION. HE NOTED THAT
IF ILC SCHEME RETAINED, PRIORITY SCHEME MORE
IMPORTANT THAN IF UK SCHEME ACCEPTED, AND THAT IF
ILC SCHEME RETAINED, UK PROPOSAL REPEATING ARTICLE 8(4)
OF HAGUE CONVENTION NOT REQUIRED. BELGIAN SUMMED
UP BY SAYING NO ONE HAD GRAVE OBJECTIONS TO ADOPTION

OF HAGUE ARTICLE 8.

CONFIDENTIAL

NNN

CONFIDENTIAL

PAGE 01 USUN N 02831 02 OF 02 100105Z

66

ACTION IO-14

INFO OCT-01 AF-10 ARA-16 EA-11 EUR-25 NEA-10 RSC-01 ADP-00

CIAE-00 DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10

PA-03 PRS-01 SS-15 USIA-15 OIC-04 CPR-02 SY-10 USSS-00

FBIE-00 SCA-01 EB-11 M-03 A-01 RSR-01 /188 W

----- 050139

R 100005Z AUG 73

FM USMISSION USUN NY

TO SECSTATE WASHDC 9017

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

AMEMBASSY BRUSSELS

AMEMBASSY BONN

USMISSION GENEVA

AMEMBASSY OTTAWA

AMEMBASSY STOCKHOLM

AMEMBASSY COPENHAGEN

AMEMBASSY VIENNA

AMEMBASSY CANBERRA

AMEMBASSY HAGUE

AMEMBASSY TOKYO

AMEMBASSY ROME

C O N F I D E N T I A L SECTION 2 OF 2 USUN 2831

8. THERE NO COMMENT ON ARTICLE 8. RE ARTICLE 9,
IT SUGGESTED THAT ARTICLE DEPENDED ON FINAL VERSION OF
ARTICLE 2. JAPAN, FRG AND SWEDEN, HOWEVER, OBJECTED
TO THIS ARTICLE.

9. RE ARTICLE 10, BELGIAN HAD SUGGESTED REPLACING
BY ARTICLE 10 OF HAGUE CONVENTION. US ARGUED THAT
INCLUSION OF PROVISION ON SUPPLY OF EVIDENCE VERY
IMPORTANT ADVANCE AND SHOULD BE KEPT. THERE NO COMMENT
ON ARTICLE 11.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 USUN N 02831 02 OF 02 100105Z

10. RE ARTICLE 12, BELGIAN SUMMARIZED VIEWS OF GROUP: MOST THOUGHT REFERENCE TO ICJ NEEDED; IF NOT POSSIBLE, ENVISAGE ARBITRATION OF CONCILIATION; DISPUTE SETTLEMENT PROVISION ESSENTIAL; MOST PREFER ALTERNATE B, EXCEPT BELGIUM WHICH HAD PREFERRED A BUT COULD TAKE B; SOME SUGGESTED USING HAGUE CONVENTION FORMULA. AUSTRALIA NOTED US PROPOSAL TO COMBINE ALTERNATES A AND B (PER DRAFT POSITION PAPER) AND, AT REQUEST OF GROUP, US DISTRIBUTED TEXT SHOWING HOW ARTICLES 12 AND 13 WOULD READ UNDER THIS PROPOSAL. GROUP AGREED TO TAKE UP ISSUE AGAIN AT NEXT MEETING.

11. BELGIUM RECALLED PREVIOUS AUSTRALIAN PROPOSAL THAT CONVENTION INCLUDE PROVISION ON INDEMNIFICATION OF VICTIMS. BELGIAN, FRG, US, JAPAN, SWEDEN AND AUSTRALIA OPPOSED ON GROUND THAT THIS NOT PART OF SCOPE OF CURRENT CONVENTION AND WOULD CAUSE SERIOUS DIFFICULTIES BOTH IN SUBSTANCE AND TACTICS. FRG PROPOSED THAT CONVENTION CONTAIN PROVISION REQUIRING STATE PARTY IN WHICH OFFENSE OCCURRED TO NOTIFY SENDING STATE OF DIPLOMAT OF OFFENSE (EVEN IN CASES WHERE ALLEGED OFFENDER HAD NOT FLED TERRITORY AS PER ARTICLE 4). UK, NETHERLANDS, AND US GAVE TENTATIVE FAVORABLE REACTIONS TO AIM OF THIS SUGGESTION.

12. HAVING CONCLUDED REVIEW OF DRAFT ARTICLES, VAN BRUSSELEN RAISED QUESTION OF FUTURE MEETINGS OF GROUP. ALL AGREED ON USEFULNESS OF MEETINGS. VAN BRUSSELEN DESIRED CENTER FUTURE MEETINGS MAINLY ON TEXTS IN ORDER TO SOLVE MAJOR DIFFICULTIES AND ONLY THEN DEAL WITH MORE MINOR DRAFTING DIFFICULTIES. US SUGGESTED THAT ANOTHER MEETING COULD MOST USEFULLY ALSO CONSIDER TACTICS WHICH SHOULD BE USED IN DECIDING WHETHER AND WHEN TO PRESENT ALTERNATE VERSIONS, IF AT ALL, AND TACTICS FOR CONSULTATIONS AND LOBBYING OUTSIDE OF GROUP, WHETHER IN NEW YORK OR CAPITALS. NETHERLANDS AGREED TACTICS EXTREMELY IMPORTANT, AND SUGGESTED MANY OF UK/US DIFFERENCES MORE RELATED TO TACTICS THAN SUBSTANCE. HE HOPED DELS WOULD RECEIVE FLEXIBLE INSTRUCTIONS

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 USUN N 02831 02 OF 02 100105Z

RE TACTICS. UK SUPPORTED NETHERLANDS. HE ALSO
MENTIONED SEPT. 17-18 COUNCIL OF EUROPE MEETING
ON DRAFT ARTICLES AND SUGGESTED DELS TO
THAT MEETING RECEIVE FULL REPORT ON VAN BRUSSELEN
GROUP MEETINGS SO THAT POSITIONS WOULD BE CONSISTENT.
BELGIAN URGED ON PARTICIPANTS TO HAVE DRAFT TEXTS
OF REVISIONS THEY SUPPORTED READY FOR NEXT MEETING.
AND IF POSSIBLE TO CIRCULATE SUCH TEXTS PRIOR TO
MEETING. NEXT MEETING WAS SET FOR SEPTEMBER 5 AND
IT AGREED MEETING WOULD CONSIDER BOTH TEXTS AND
TACTICS.
SCALI

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, POLICE PROTECTION RIGHTS
Control Number: n/a
Copy: SINGLE
Draft Date: 10 AUG 1973
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: hilburpw
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1973USUNN02831
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS SCALI
Errors: N/A
Film Number: n/a
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1973/newtext/t19730843/aaaabfty.tel
Line Count: 289
Locator: TEXT ON-LINE
Office: ACTION IO
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 6
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 73 USUN NEW YORK 2539, 73 USUN NEW YORK 2806, 73 USUN NEW YORK 2570
Review Action: RELEASED, APPROVED
Review Authority: hilburpw
Review Comment: n/a
Review Content Flags:
Review Date: 07 SEP 2001
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07-Sep-2001 by thigpegh>; APPROVED <10-Sep-2001 by hilburpw>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: CONVENTION ON PROTECTION OF DIPLOMATS
TAGS: PFOR, PINS, NL, AS, AU, UK, BE, GE, FR, SW, UN
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005